

CHALOS, O'CONNOR & DUFFY, LLP
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DS Rendite-Fonds Nr. 62 MS Cape Cook GmbH & Co. Containerschiff KG
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Owen F. Duffy (OD-3144)
George E. Murray (GM-4172)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DS RENDITE-FONDS NR. 62 MS CAPE COOK
GMBH & CO. CONTAINERSCHIFF KG,

Plaintiff,

07 CV 3822 (RJH)

v.

FAIRWIND SHIPPING COMPANY LIMITED,
FAIRWIND NAVIGATION CO.,
FAIRWIND (HOLDINGS) LIMITED, and,
FAIRWIND INTERNATIONAL CO., LIMITED.

**THIRD AMENDED
AFFIDAVIT THAT
DEFENDANTS CANNOT
BE FOUND WITHIN THE
DISTRICT**

Defendants.

-x

STATE OF NEW YORK :
: ss.
COUNTY OF NASSAU :

This affidavit is executed by the attorney for the Plaintiff, DS Rendite-Fonds Nr. 62 MS Cape Cook GmbH & Co. Containerschiff KG (hereinafter "RENDITE"), in order to secure the issuance of a Summons and Process of Attachment and Garnishment in the above-entitled, *in personam*, Admiralty cause.

Owen F. Duffy, being first duly sworn, deposes and states:

1. I am a partner of the firm of Chalos, O'Connor & Duffy LLP representing Plaintiff, RENDITE, in this case.

2. I have personally inquired or have directed inquiries into the presence of Defendants FAIRWIND SHIPPING COMPANY LIMITED, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED in this District.

3. I have personally checked with the office of the Secretary of State of the State of New York, using the Secretary of State's Division of Corporations database, and I have determined that, as of October 9, 2007, the Defendants FAIRWIND SHIPPING COMPANY LIMITED, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED are not incorporated pursuant to the laws of New York, are not qualified to conduct business within the State of New York and have not nominated agents for the service of process within New York because the Secretary of State of the State of New York has no records for the Defendants FAIRWIND SHIPPING, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED COMPANY LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED.

4. I have inquired of Verizon Telephone Company whether the Defendants FAIRWIND SHIPPING COMPANY LIMITED, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND

INTERNATIONAL CO., LIMITED can be located within this District. The Verizon Telephone Company has advised me that the Defendants do not have any telephone number listings within this District.

5. I have further consulted with several other telephone directories on the internet, and I have found no telephone listing or address for the Defendants FAIRWIND SHIPPING COMPANY LIMITED, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED within this District.

6. I have further made several searches on the internet with various search engines and maritime websites, and I have found no indication that the Defendants FAIRWIND SHIPPING COMPANY LIMITED, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED can be found within this District.

7. In that I have been able to determine that the Defendants FAIRWIND SHIPPING COMPANY LIMITED, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED are not based in the United States of America and that I have found no indication that the Defendants FAIRWIND SHIPPING COMPANY, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED can be found within this District, I have formed a

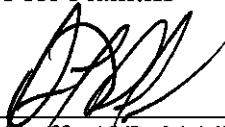
good faith belief that the Defendants FAIRWIND SHIPPING COMPANY LIMITED, FAIRWIND NAVIGATION COMPANY, FAIRWIND (HOLDINGS) LIMITED and FAIRWIND INTERNATIONAL CO., LIMITED do not have sufficient contacts or business activities within this District to defeat maritime attachment under Rule B of the Supplemental Rules for Admiralty and Maritime Claims as set forth in the Federal Rules of Civil Procedure.

8. It is my belief, based upon my own investigation that the Defendants cannot be found within this District for the purposes of Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

Dated: Port Washington, New York
October 9, 2007

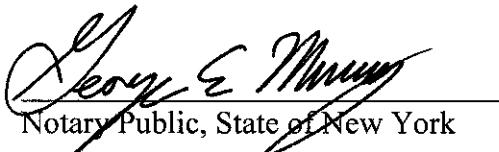
CHALOS, O'CONNOR & DUFFY, LLP
Attorneys for Plaintiff

By:



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Subscribed and sworn to before me this
October 9, 2007



Notary Public, State of New York

GEORGE E. MURRAY
Notary Public, State of New York
No. 02MU6108120
Qualified in New York County
Commission Expires April 12, 2008